

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16 CV 355**

**NICOLLETTE KOSTEBA, as mother and)
next friend of COLTON KOSTEBA, a)
minor; NICOLLETTE KOSTEBA,)
Individually, and NOAH KOSTEBA,)
Individually,)**

Plaintiffs

v

**CRACKER BARRELL OLD COUNTRY)
STORE, INC.,)**

Defendant.

ORDER

THIS MATTER has come before the undersigned pursuant to a Certification and Report of Initial Attorneys' Conference (#47). The Court has reviewed the Certification and the pleadings in this matter and as a result of the review, the Court has determined that a hearing is necessary in regard to the discovery plan and in regard to additional issues which are causing concern to the Court. The additional issues are:

(1) Whether or not the minor Plaintiff can proceed without the appointment of a general guardian or a guardian ad litem as required by Rule 17 of the Federal Rules of Civil Procedure, and particularly Rule 17(a), (b) and (c);

(2) To determine whether or not the parties have completed their consent to the jurisdiction of the magistrate judge. In the Certification and Report of Initial Attorneys' Conference, the parties stated they consented to the magistrate judge jurisdiction and they would subsequently file a Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge, as provided by Local Civil Rule 73.1(C). Such a consent has not yet been filed; and

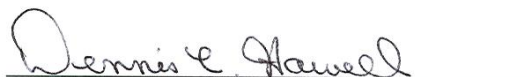
(3) To discuss the Certification and Report of Initial Attorneys' Conference filed in this matter.

The undersigned will schedule a hearing concerning these matters for Friday, January 20, 2017 at 2:00 p.m. Counsel for the parties are required to appear and be prepared to discuss the issues presented in this Order. The parties are not required to be present.

ORDER

IT IS, THEREFORE, ORDERED that a hearing in this matter is hereby scheduled concerning the issues set forth above for **Friday, January 20, 2017 at 2:00 p.m.** in courtroom #2 of the United States Courthouse in Asheville, North Carolina.

Signed: December 30, 2016



Dennis L. Howell
United States Magistrate Judge

